

**HOUSE . . . . . No. 494****The Commonwealth of Massachusetts**

PRESENTED BY:

**Angelo M. Scaccia***To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:*

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act relating to improving quality in early education and care by family child care providers.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Angelo M. Scaccia	14th Suffolk
Joan M. Menard	First Bristol and Plymouth
Kevin G. Honan	17th Suffolk
Paul J. Donato	35th Middlesex
Denise Provost	27th Middlesex
Danielle W. Gregoire	4th Middlesex
David M. Nangle	17th Middlesex
James Arciero	2nd Middlesex
Christine E. Canavan	10th Plymouth
James J. O'Day	14th Worcester District
Alice K. Wolf	25th Middlesex
Thomas M. Stanley	9th Middlesex
Matthew C. Patrick	3rd Barnstable
Christopher J. Donelan	2nd Franklin
John W. Scibak	2nd Hampshire
Benjamin Swan	11th Hampden
Martha M. Walz	8th Suffolk
Martin J. Walsh	13th Suffolk
Cheryl A. Coakley-Rivera	10th Hampden

Paul Kujawski	8th Worcester
Michael Brady	9th Plymouth
Carl M. Sciortino, Jr.	34th Middlesex
Anne M. Gobi	5th Worcester
Timothy J. Toomey, Jr.	26th Middlesex
Kay Khan	11th Middlesex
Cleon H. Turner	1st Barnstable
Ellen Story	3rd Hampshire
Robert J. Nyman	5th Plymouth
Elizabeth A. Malia	11th Suffolk
Joyce A. Spiliotis	12th Essex
William Lantigua	16th Essex
David B. Sullivan	6th Bristol
John P. Fresolo	16th Worcester
Sean Garballey	23rd Middlesex
Peter v. Kocot	1st Hampshire
Pam Richardson	6th Middlesex
Kevin Aguiar	7th Bristol
Jay R. Kaufman	15th Middlesex
Brian P. Wallace	4th Suffolk

# The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

## AN ACT RELATING TO IMPROVING QUALITY IN EARLY EDUCATION AND CARE BY FAMILY CHILD CARE PROVIDERS.

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to establish forthwith a system for improving the quality of family child care services in the commonwealth and to provide collective bargaining rights for providers of such services, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

SECTION 1. Section 1 of Chapter 15D of the General Laws, amended by chapter 215 of the acts of 2008, is hereby further amended by adding the following paragraph: -

Subject to appropriations and notwithstanding any general or special law to the contrary, it is the intention of the commonwealth to assure quality early education and care for children by family child care providers. It is also the intention of the commonwealth that family child care providers and the commonwealth work jointly to establish a quality early education and care program that serves eligible low income families through providers who have the requisite skills and training.

SECTION 2. Said chapter 15D is hereby further amended by adding the following 3 sections:

Section 17. As used in section 17 to 19, inclusive, the following terms shall have the following meanings:

“Division”, the division of labor relations established by section 90 of chapter 23.

“Employee organization”, an employee organization as defined in section 1 of chapter 150E.

13 “Family child care services”, child care services provided for less than 24 hours per day in a private  
14 residence, including the residence of the provider or the home of the child, on behalf of low-income and  
15 other at risk children, for which payment from the commonwealth is made pursuant to a rate structure for  
16 voucher and contracted payments developed by the department.

17 “Family child care provider”, a person who provides family child care services on behalf of low-income  
18 and other at risk children and who receives payment from the commonwealth for such services pursuant  
19 to a rate structure for voucher and contracted payments developed by the department.

20       Section 18. (a) Family child care providers shall be considered public employees, as defined by  
21 and solely for the purposes of, chapter 150E and section 17J of chapter 180. Said chapter 150E shall  
22 apply to family child care providers except to the extent that chapter 150E is inconsistent with this  
23 section, in which case this section shall control. In addition, family child care providers shall be treated  
24 as state employees solely for the purposes of sections 17A and 17G of chapter 180. Family child care  
25 providers shall not be considered public employees or state employees for any purpose other than those  
26 set forth in this paragraph. The commonwealth, acting through the commissioner of administration, shall  
27 be the employer, as defined by and solely for the purposes of said chapter 150E and sections 17A, 17G  
28 and 17J of said chapter 180 and deductions under said sections 17A, 17G and 17J may be made by any  
29 entity authorized by the commonwealth to compensate family child care providers pursuant to a rate  
30 structure for voucher and contracted payments developed by the department. Family child care providers  
31 shall not be eligible for benefits through the group insurance commission, the state board of retirement or  
32 the state employee workers' compensation program.

33       (b) Family child care providers who are employees of the commonwealth under this section are  
34 not, for that reason, public employees or employees of the commonwealth for any other purpose. Nothing  
35 in this chapter shall alter the obligations of the commonwealth or the parent or legal guardian of the child  
36 receiving family child care services to provide their share of social security, federal and state  
37 unemployment taxes, Medicare and workers' compensation insurance under the Federal Insurance  
38 Contributions Act, federal and state unemployment law, the Massachusetts Workers' Compensation Act,  
39 or vicarious liability in tort.

40       (c) Consistent with section 9A of chapter 150E, no family child care provider shall engage in a  
41 strike and no family child care provider shall induce, encourage or condone any strike, work stoppage,  
42 slowdown or withholding of services by any family child care provider.

43 (d) The only appropriate bargaining unit for family child care providers shall consist of all family  
44 child care providers in the commonwealth who are on the most current list provided by the commissioner  
45 of early education and care, regardless of the number of hours of care such family child care providers  
46 have worked.

47 (e) An employee organization seeking to represent family child care providers shall file with the  
48 division either a representation petition accompanied by a showing of interest of 30 per cent or a petition  
49 for certification by written majority authorization

50 (f) The mandatory subjects as to which the commonwealth and an employee organization  
51 certified by the division as the bargaining representative of family child care providers shall bargain shall  
52 include training for family child care providers, monitoring and evaluation criteria, improvement of  
53 recruitment and retention of qualified providers, the quality of early education provided, and payment  
54 procedures. Nothing in this legislation shall inhibit the parties from discussing other permissive subjects  
55 of bargaining, including without limitation the rate structure for family child care providers.

56 (g) In addition to the mandatory subjects set forth above in clause (f), the commonwealth and an  
57 employee organization certified by the division as the bargaining representative of family child care  
58 providers shall bargain about the rate structure for voucher and contracted payments for family child care  
59 services on behalf of low-income and other at risk children.

60 (h) Nothing in this section shall modify any right of a parent or legal guardian to choose,  
61 terminate the services of, or otherwise supervise a family child care provider.

62 Section 19. Collective bargaining and related activity by providers, as authorized pursuant to this  
63 chapter, shall qualify for the state action exemption to the federal anti-trust laws.

64 SECTION 3. Clause (g) of section 18 of chapter 15D, as set forth in section 2 of this act, shall take effect  
65 on January 1, 2011.